

IN THE
SUPREME COURT OF THE UNITED STATES

Term 19
No. **76-371**

Supreme Court, U. S.
FILED

SEP 8 1976

MICHAEL RODAK, JR., CLERK

PAUL A. WOOD

Petitioner

— VS —

STARK TRI-COUNTY BUILDING

TRADES COUNCIL et al*

Respondents

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT, CINCINNATI, OHIO**

FOR DEFENDANT - APPLLEES

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Canton, OH

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FOR PLAINTIFF - APPELLANT

JOSEPH SHEBAN ESQ

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Youngstown, OH 44511

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*Wherever the word Union is found, it shall mean Unions

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II. JURISDICTIONAL STATEMENT

The date of the Judgment sought to be reviewed is June 11, 1976. The statutory provision believed to confer on this Court jurisdiction to review the Judgment in question is Section 1254 of Title 28 of the United States Code. (Appeal allowed within ninety (90) days.)

III. QUESTIONS PRESENTED

(A) Petitioner (Mr. Wood) from Virginia decided to build a high-rise apartment building in Canton, Ohio. Respondent Union refused him manpower because he was a Virginian.

(B) Mr. Wood hired his own men and without a labor dispute with his men, the Union picketed him for more than a year. The Union, by force, stopped the delivery of material and by threat of boycott of the lender stopped his finances.

(C) The Union, three hundred strong, lead by three Union Officers, marched to the site; destroyed the building, the equipment, dumped the fuel and started a fire, did beat many of the employees, sending them to the hospital and with dangerous weapons threatened to kill Mr. Wood.

(D) Mr. Wood asked the Court for money, Grand Jury, and for protection, but he was refused and the case was dismissed.

IV. SECTIONS OF THE CONSTITUTIONS INVOLVED

The Sections violated are:

(A) U. S. Constitution Article IV Section 2

"Full faith and credit shall be given in each state to the

public acts . . . of every other State."

(B) U. S. Constitution Amendment XIV

" . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

(C) Ohio Constitution Article I Section 1

"All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and seeking and obtaining happiness and safety."

(D) Ohio Constitution Article I Section 16

"All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law."

(E) U.S. Constitution Article I Section 10

"No state shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts."

(F) U.S. Constitution Amendment V and XIV

" . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

" . . . nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

(G) Respondents violated all labor laws and all civil laws. All Constitutional rights from John Adams and Jefferson to Honorable Judge Burger and the Associate Justices!

V. STATEMENT OF THE CASE

(A) The Unions raid of Wood property was not a secret. Large numbers of the Canton police force rushed to the site to expel the raiders.

(B) Ambulances and cars took the injured to the hospital.

(C) Wood project was picketed before and after the raid; a period of about a year and a half Wood had no labor dispute.

(D) The cost to hire those who would do the picketing was gathered from the various local chapters of the union. Thirteen chapters are listed in the Complaint.

(E) The Union officer in charge of the picketing with other two officers led the three hundred men who committed:

(1) trespass

(2) destruction of real property

- (3) destruction of personal property
- (4) arson
- (5) assault with intent to kill
- (6) criminal conspiracy
- (7) Violated the civil rights of the plaintiff-appellant, Mr. Wood.

(F) The Union officer, who was in charge of picketing and who lead the men to destroy the building was the only witness allowed to testify, in the trial, verified the facts claimed in the petition and herein enumerated.

(G) The Union through their agents and through their associations, demanded from the lender to stop payment on its loan agreement or face a national boycott. The lender succumbed to the Union demand and refused to make the installment payments as they became due.

VI. REASONS RELIED ON FOR ALLOWANCE OF WRIT

(A) Petitioner was denied his Constitutional rights. The Ohio Union refused him manpower because he was a Virginian.

(B) The trial Court refused petitioner the right to testify and refused petitioners witnesses from testifying. The Courts are overcrowded with cases, are over-worked and underpaid. As a matter of fact petitioner's council presented to the Court a Trial Brief of 13 legal size pages citing the Constitutions and 12 cases among them the United Mine Workers vs. Gibbs 243 U.S. page 66.

(C) Petitioner filed with the Court a list of the witnesses; seven of his own and twenty one to be cross-examined because

petitioner obtained list of the Union minutes and for months most of those minutes contained discussions about what to do with "this man" from Virginia.

(D) The case came for trial and Mr. Warren Myers testimony covered 14 legal pages which he verified the items claimed in the petition.

The court took ten minutes recess and then the case changed into a fiction.

The opinion of the trial court is included under Appendix H

The Court said: "... plaintiff failed ... to file a list of proposed witnesses with the court."

In the bill of exception page 67 line 3.

Mr. Sheban: "Your Honor ... I have filed my papers ... in the court in Youngstown."

The Court: "It doesn't make any difference where they are filed. They will still be on file." page 67 line 8

(Youngstown Court is a division of the Cleveland Court.)

Plaintiff called for Mr. Tate one of the witnesses on the list.

The Court: "... "What is the relevance of that testimony to this trial?" page 55 line 21

Mr. Sheban: "That the various Unions on July 30, 1967, raided the place, damaged equipment, started a fire, beat the employees ... some of them went to the hospital ... tear the building apart and the officers came ... " page 55 line 23

Mr. Tate was a witness to the beatings of the employees and the destruction of property by the Union.

To Mr. Wood, whose life was saved by the Canton police the Court says this is hearsay evidence. To Mr. Myers, an officer of the Union who attended Union meetings to raise money for picketing for nearly a year and a half, Mr. Myers who with other two Union officers lead three hundred men to the Mr. Woods property for destruction. The Court said that this has no Cintella of evidence on the case. page 32 line 12 etc.

In a desperate attempt to bring the court to the issues in the case Atty. Sheban said:

"We have the cases to support us. We have the case of Gibbs cited in the brief."

The Court: "You needn't argue the case."

Mr. Sheban: "You asked me what was the purpose. I have to . . .

The Court: "Don't argue the case to me cited in the Supreme Court of the United States." page 54 line 18, etc.

CONCLUSION

Mr. Wood the architect, the builder, the contractor, the bondsman, came from Virginia to build in Canton, Ohio.

The Union approved violence, participated in the violence which is unlawful under state laws, and failed to repudiate. Mr. Wood lost over a half million dollars; the Unions became liable for the loss. Gibbs Case 243, U.S. page 66.

The trial Court errored when it did not permit Wood to testify, to call his witnesses or to cross-examine in order to put the facts in the record.

Can the Union and our system of government survive if they were permitted to do destruction without punishment?

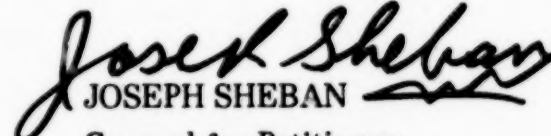
Wherefore the Petitioner Paul A. Wood prays that a Writ of Certiorari issued to review the judgment of the United States Court of Appeals for the Sixth Circuit in the above entitled case.

Respectfully submitted,


JOSEPH SHEBAN
Counsel for Petitioner

CERTIFICATION

The undersigned, Joseph Sheban, Attorney for Petitioner, does hereby certify that copies of this Petition were mailed to the Attorneys for Respondent, James Cross, ESQ; Jeffrey Belkin, ESQ; L.M. Oberdank, ESQ; Eugene Green, and a request was sent to the United States of Appeals for the Sixth Circuit to certify and docket this case in this Court.


JOSEPH SHEBAN
Counsel for Petitioner
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Telephone: (216) 788-8475

INTRODUCTION TO APPENDIXES

(A) The downfall of State comes from within.

- (1) To give immunity to the Unions the Trial Court ignored its own records.
- (2) The cause of action was stated in the complaints Appendix A.
- (3) The cause of action was repeated in a trial brief of 14 legal pages and numerous legal citations.
- (4) It was repeated, to the court, during the trial.
- (5) Plaintiff's witnesses were in court but the Court refused them to take the stands.

(B) The Court of Appeals ignored its own Docket.

- (1) August 13, 1975 all trial records were filed.
- (2) October 24, 1975 ten copies of Appellants Appendixes (Volume I and II) were filed.
- (3) January 9, 1975 order dismissing appeal on motion of appellees unless appellant files an appendix in conformity with the Rules by January 30, 1976.
- (4) Ten copies of Appendix for appellant (tendered)

All this and the Court on July 8, 1976 said the Appellant did not file an Appendix. (See Appendix D)

Hence if the Courts are too busy to know what is on their dockets the remedy is not in dismissing the cases and if the dismissal is to give immunity to the Unions, the Constitution and our system of government including the courts will not survive.

APPENDIX A IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

PAUL A. WOOD	:	
Plaintiff	:	
— vs —	:	CASE NO. C-68-104
STARK TRI-COUNTY BUILDING	:	
TRADES COUNCIL, A.F. of L. —	:	
C.I.O.	:	
	:	
	:	THIRD
	:	AMENDED
	:	CLAIM
	:	
	:	SECOND DRAFT

(1) Plaintiff, Paul A. Wood, is a citizen of the State of Virginia. The Tri-County building Trades Council (an unincorporated association) together with its local unions, are all citizens of the state of Ohio and within the jurisdiction of this Court; furthermore, the cause of action of burning and destroying plaintiff's property took place in the city of Canton, Ohio, within the jurisdiction of this Court.

The matter in controversy, exclusive of interest and costs, exceeds ten thousand dollars (\$10,000.00).

(2) Plaintiff, in his individual capacity, was building

a certain exclusive highrise apartment complex for the Woodmont Apartment Corporation of Canton, Ohio. Said corporation obtained a construction loan as well as a permanent loan from the Equitable Life Assurance Society of the United States, A New York Corporation.

Plaintiff individually agreed with Equitable to build the apartments and individually posted a bond for that purpose.

Equitable agreed to make the payments in installments as the building progressed.

To appease some builders, however,

The UNION (A) refused to furnish manpower to the plaintiff

The UNION (B) refused to permit the plaintiff to hire his own men

The UNION (C) threatened plaintiff's workers with bodily harm

The UNION (D) sent its 'raiding squad' to the site. These 'raiders' assaulted this plaintiff and some of his workers, burned and destroyed his trucks, his dozer, his cement mixing trucks and other construction equipment.

The UNION (E) with hammers, tore down the walls of the building

The UNIONS (F) through their agents and through their associations, demanded from the lender, the Equitable Corporation — to stop payment on its loan agreement or face a national boycott. Equitable succumbed to the Union demands and refused to make the installment payments as they became due.

By then plaintiff had already expended more than one/half million dollars (\$500,000.00).

Plaintiff further says that all of the activities of the defendants above enumerated, are unlawfully wanton, malicious, illegal, deliberately planned and executed for the purpose of damaging and destroying this plaintiff.

WHEREFOR, plaintiff prays for a judgment against the defendants, jointly and separately in these various sums;

One half million dollars for his actual loss of money

One million dollars for compensatory damage

One and one/half million for punitive damage together with other relief the Court may deem just and for interest and cost.

JOSEPH SHEBAN
attorney for plaintiff

APPENDIX B
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PAUL A. WOOD	:	C68-104	
	:		
Plaintiff,	:		
	:		
— vs —	:	MEMORANDUM	
	:	OPINION AND ORDER	
STARK TRI-COUNTY	:		
BUILDING TRADES COUNCIL,	:		
et, al.,	:		
	:		
Defendants	:::	FILED	
		MAY 6 2 39 PM '75	
		Clerk U.S. District Court	
		Northern District	
		of Ohio	

Battisti, C.J.

After more than seven years, this case finally came to trial on May 5, 1975. For the reasons described below, the case was dismissed before the close of plaintiff's case.

At trial, counsel for plaintiff not only began to argue entirely new causes of action, never before mentioned in any pleadings in the instant case, but apparently conceded the only cause of action, that for personal injuries and damages, which survived earlier orders of this Court.

Despite every indulgence by defendants and by the Court, counsel for plaintiff failed completely to comply with ordinary and reasonable pre-trial orders of this Court, e.g. failing to file a list of proposed witnesses with the Court. Although this Court had already decided the related case of *Wood v. Equitable*, C70-1139, counsel for plaintiff repeatedly attempted to raise issues already litigated in that action.

This Court attempted to elicit from counsel for plaintiff what precisely he intended to prove by each witness that he proposed to call. The full testimony of his "primary" witness, Warren "Tiny" Myers, failed completely to provide even a scintilla of evidence to support liability against any defendants.

Counsel for plaintiff admitted to the Court that he had no firm evidence whatever, and that he hoped only to introduce heresay through his client, and obtain "admissions" from the mouths of the officers of defendants.

With this state of the evidence, the Court had no option but to dismiss this case with prejudice, since it was painfully clear as a matter of fact that plaintiff has, through all of the many years of this litigation, been unable to find any evidence to support his conspiratorial theories of liability, which seem to shift from day to day.

For over seven years plaintiff has demanded his "day in court" to establish his accusations. It became quickly evident, however, when that day arrived, that plaintiff has no evidence to back those accusations, and it would have been a travesty of justice to allow the trial to proceed further.

On the basis of the evidence presented both before and at trial, and assuming that plaintiff would have presented the "evidence" he suggested in response to questioning by the Court, this Court finds that there was no conspiracy, authorization, or ratification of the conduct charged in the Amended Complaint, Second Draft, and therefore orders this case dismissed.

IT IS SO ORDERED.

/s/ Frank J. Battisti
Chief Judge

APPENDIX C

No. 75-1978

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PAUL A. WOOD

Plaintiff-Appellant

FILED

July 8, 1976

V.

O R D E R

STARK TRI-COUNTY BUILDING TRADES
COUNCIL, et al,

Defendant-Appellees

Before: WEICK, EDWARDS and ENGEL, Circuit Judges

This matter having come before the court upon a motion filed by counsel for appellant on June 18, 1976, for leave to file his "Petition for Hearing In Banc", and the panel taking note that said petition, which was tendered with the motion, was not timely filed as required by Rule 41 Federal Rules of Appellate Procedure, and there appearing no good reason why said petition was not timely filed, and it further appearing that

earlier efforts to file a petition by lodging copies thereof directly with the judges of the panel and not with the Clerk of the Court were themselves not timely filed, and it further appearing that said petition is without merit and no good reason exists to grant said motion, NOW THEREFORE,

IT IS ORDERED that said motion for leave to file a petition for hearing in banc be and it is hereby denied.

ENTERED BY ORDER OF THE COURT

/s/ John P. Hehman

Clerk

APPENDIX D

GENERAL DOCKET

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

CASE NO. 75-1978

DATE FILINGS — PROCEEDINGS

1975

Aug. 13	Certified Record (3 vol. pleadings, 1 vol. transcript, 3 vol. despositions), filed; and cause docketed
Sept. 22	Twenty-five copies of Brief for Appellant
Sept. 22	Proof of service of Appellant's Brief
Oct. 14	Motion of Appellee to dismiss appeal with memo in support
Oct. 24	Ten copies of Appellant's Appendix (vols. I & II)
Oct. 24	Opposition to motion to dismiss

1976

Jan. 9	Order dismissing appeal on motion of Appellees unless Appellant files an appendix in conformity with the Rules by 1/30/76 (Peck, McCree and and Miller, JJ.)	00-1
ch 1/26	Ten copies of appendix for appellant (tendered)	
ch 1/26	Three copies of transcript volume of appellant (tendered)	

ch 2/12 Motion of appellees to dismiss appeal
 ch 3/ 2 Response to motion to dismiss
 ch 3/19 Motion: appellee's brief to 4/2/76 (denied JPH
 3/22)
 dk 4/28 Order granting motion to dismiss and denying
 motion for damages and attorneys' fees (Weick,
 Edwards and Engel, JJ.) QQ-3
 me 6/18 Motion of appellant for leave to file a petition
 for hearing in banc
 me 6/18 Petition for hearing in banc (TENDERED)
 dk 7/ 8 Order denying motion for leave to file petition
 for hearing in banc (Weick, Edwards and
 Engel, JJ.) RR-4

APPENDIX E
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PAUL A. WOOD,	:	Case No. 75-1978
	:	
Plaintiff-Appellant	:	
	:	
v.	:	
	:	
STARK TRI-COUNTY BUILDING	:	
TRADES COUNCIL et al.,	:	MOTION
	:	
Defendants-Appellees	:	

Now come the Appellees and move as follows:

1. That the Court dismiss the instant appeal for the reason that the Appellant has failed to comply with the Court's Order of January 9, 1976, as is more fully set forth in the accompanying Memorandum.

2. Pursuant to Rule 39, F.R.A.P., that the Court award the Appellees just damages and costs, including attorneys fees, for the reason that the instant appeal is frivolous.

Respectfully submitted,

/s/ Jeffrey A. Belkin

/s/ James O. Cross

/s/ Lawrence M. Oberdank

Attorneys for Defendants -
 Appellees

APPENDIX F

Rule 30.

APPENDIX TO THE BRIEFS

(a) Duty of Appellant to Prepare and File; Content of Appendix; Time for Filing; Number of Copies. The appellant shall prepare and file an appendix to the briefs which shall contain: (1) the relevant docket entries in the proceeding below; (2) any relevant portions of the pleadings, charge, findings, or opinion; (3) the judgment, order or decision in question; and (4) any other parts of the record to which the parties wish to direct the particular attention of the court. The fact that parts of the record are not included in the appendix shall not prevent the parties or the court from relying on such parts.

Unless filing is to be deferred pursuant to the provisions of subdivision (c) of this rule, the appellant shall serve and file the appendix with his brief. Ten copies of the appendix shall be filed with the clerk, and one copy shall be served on counsel for each party separately represented, unless the court shall by rule or order direct the filing or service of a lesser number.

APPENDIX G

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PAUL A. WOOD,	:	CASE NO. 75-1978
	:	
Plaintiff-Appellant	:	
	:	
	:	MOTION
	:	
— vs —	:	RECEIVED
	:	MAY 21, 1976
STARK TRI-COUNTY BUILDING	:	JOHN P. HEHMAN
TRADES COUNCIL, et al.	:	Clerk
	:	
Defendants-Appellees	:	
	:	
	:	

NOW COMES JOSEPH SHEBAN and moves the honorable Court for leave to file an Amended Index in the above case in conformity of Sec. 30A of the rules of Court.

Respectfully submitted,


JOSEPH SHEBAN

Atty. for Paul A. Wood,
Pltf.

5020 Sheban Drive
Youngstown, Ohio 44511
Phone: (216) 788-8475

CERTIFICATION

I certify that copies were mailed to:

Mr. James O. Cross
 Mr. Jeffrey A. Belkin
 Mr. Lawrence M. Oberdank
 Mr. Eugene Greene


 JOSEPH SHEBAN
 May 20, 1976

APPENDIX H

No. 75-1978

UNITED STATES COURT OF APPEALS
 FOR THE SIXTH CIRCUIT

PAUL A. WOOD

FILED

Plaintiff-Appellant

April 28, 1976

V.

JOHN P. HEHMAN, Clerk

O R D E R

STARK TRI-COUNTY BUILDING TRADES
 COUNCIL, et al,

Defendants-Appellees

Before: WEICK, EDWARDS and ENGEL, Circuit Judges

This case is before the court on motion of defendants-appellees to dismiss the appeal because of plaintiffs-appellant's failure to file an Appendix pursuant to Rule 30(a), Federal Rules of Appellate Procedure. Appellees further request that the court award damages and costs, including attorneys' fees, pursuant to Rule 39, Federal Rules of Appellate Procedure, for the reason that the instant appeal is frivolous.

On January 9, 1976, this court entered an order dismissing the appeal but further providing that the appeal should be reinstated "in the event plaintiff-appellant files an appendix as required by Rule 30(a), Federal Rules of Appellate Procedure,

and otherwise fully complies with said Rule on or before January 30, 1976 . . . ”

On January 28, 1976 plaintiff-appellant tendered an appendix, but an examination of that document indicates again that it did not comply with the requirements of Rule 30(a). Accordingly,

IT IS ORDERED that the motion to dismiss be and the same is hereby granted. Further, IT IS ORDERED that the motion for damages and attorneys' fees be and the same is hereby denied.

ENTERED BY ORDER OF THE COURT

John P. Hehman

Clerk

FOOTNOTE

Appellant filed petition for hearing in BANC. It was refused because of the delay. Attorney for Appellant reported to the court in writing that he was in a car accident. A large trailer demolished his car and nearly killed him, but this was not sufficient for the court.